

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

MIDAMERICAN ENERGY COMPANY
Facility ID# 78-01-026
Pottawattamie County

ADMINISTRATIVE CONSENT ORDER
NO. 2008-AQ-**20**

TO: MidAmerican Energy Company
Paul J Leighton, Reg. Agent
4299 NW Urbandale Dr.
Urbandale, IA 50322

MidAmerican Energy Company
Steven Brewer, Exec. Vice President
7215 Navajo Street
Council Bluff, Iowa 51501

SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and MidAmerican Energy Company (MidAmerican) for the purpose of resolving a construction permitting violation which occurred at the MidAmerican Walter Scott Jr. Energy Center in Council Bluffs, Iowa. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Questions regarding this administrative consent order should be directed to:

Relating to technical requirements:

Dennis Thielen, Air Quality Bureau
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Urbandale, Iowa 50322
Phone: 515/281-4899

Relating to legal requirements:

Anne Preziosi, Attorney for the DNR
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Urbandale, Iowa 50322
Phone: 515/281-6243

Payment of penalty to:

Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034

I. JURISDICTION

Pursuant to the provisions of Iowa Code sections 455B.134(9) and 455B.138(1) which authorize the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division II (air quality), and the rules promulgated or permits issued pursuant to that part; and Iowa Code section 455B.109 and

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567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties, the DNR has jurisdiction to issue this administrative consent order.

II. STATEMENT OF FACTS

1. MidAmerican is the largest utility in Iowa, providing service to more than 720,000 electric customers and more than 702,000 natural gas customers. MidAmerican has facilities in several communities throughout Iowa, Illinois, and South Dakota. Its Walter Scott Jr. Energy Center is located at 7215 Navajo Street in Council Bluffs, Iowa. Sources at this facility include: boilers, cooling towers, generators, flyash equipment, coal handling equipment, and lime handling equipment.

PAST ENFORCEMENT HISTORY:

2. On March 14, 2007, MidAmerican was issued a Notice of Violation letter for not obtaining construction permits prior to installing equipment and for failure to obtain supplemental permits.

3. On June 5, 2007, MidAmerican was referred to the Iowa Attorney General for its failure to obtain construction permits prior to installing equipment.

4. On June 11, 2007, MidAmerican entered into a settlement agreement with the Iowa Attorney General for its permitting violations. MidAmerican paid a settlement amount of \$27,500.00.

CURRENT VIOLATION:

5. On March 29, 2005, the DNR issued MidAmerican a permit, 78-A-169-S3, to install a new reclaim pit and conveyors and to modify Transfer House 1 to increase air flow to accommodate the project changes at the Walter Scott Jr. Energy Center.

6. On May 3, 2007, The DNR issued MidAmerican permit 78-A-169-S4 to reflect a change in the stack height on the dust collector at the Water Scott Jr. Energy Center as part of a project to rebuild conveyor 7 following catastrophic failure of the conveyor. MidAmerican determined, on May 3, 2007, that the contractor had made a modification to the project permitted under 78-A-169-S3, which resulted in the filing of as as-built permit application for replacement of a baghouse on Transfer House 1 on August 23, 2007.

7. On May 3, 2007, MidAmerican replaced a baghouse on its Transfer House 1 at its Walter Scott Jr. Energy Center.

8. On September 19, 2007, DNR issued a Notice of Violation letter to

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MidAmerican for not obtaining a construction permit prior to replacing the baghouse on its Transfer House 1. The letter also informed MidAmerican that further enforcement action may follow.

9. On September 21, 2007, DNR issued a permit, 78-A-169-S5, for the replacement of control equipment (i.e. baghouse) on Transfer House 1, reflecting a reduction in the permitted emission rate from 2.33 lbs/hr to 1.31 lbs/hr as a result of more efficient controls.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission (Commission) shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-34 relating to air quality.

2. Pursuant to Iowa Code sections 455B.133 and 455B.134 and 567 IAC 22.1(1), a person who constructs, installs, reconstructs or alters equipment or control equipment must first obtain an air quality construction permit from the DNR, unless an exemption applies. On May 3, 2007, MidAmerican replaced a baghouse at its Walter Scott Jr. facility without first obtaining a construction permit. No exemption applies. The above facts indicate violations of these provisions.

V. ORDER

THEREFORE, the DNR orders and MidAmerican agrees to do the following:

1. Comply with air quality construction permit requirements in the future; and
2. Pay a penalty of \$2,950.00 within 30 days of the date the Director signs this administrative consent order.

VI. PENALTY

Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000.00 per day of violation for the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to that provision.

Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties through 567 IAC chapter 10. Pursuant to this chapter, DNR has determined that

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the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with a penalty of \$2,950.00. The administrative penalty assessed by this order is determined as follows:

Economic Benefit – MidAmerican gained only minimal economic benefit by not obtaining the proper permit prior to installing a new baghouse on its Transfer House 1 at its Walter Scott Jr. facility in Council Bluffs, Iowa. Based on the above considerations, no penalty is assessed for this factor.

Gravity of the Violation – MidAmerican's failure to obtain a permit prior to construction prevented the DNR from evaluating the potential emissions and ambient air impacts from the as-built source. The inability to review this project before construction prohibited the DNR from determining whether this source would meet all applicable emission limits and operating requirements. This type of violation threatens the integrity of the regulatory program. Based on the above considerations, \$700.00 is assessed for this factor.

Culpability – MidAmerican has a duty to remain knowledgeable of DNR's requirements and to be alert to the probability that its conduct is subject to DNR's rules. MidAmerican has previously obtained numerous permits for modifying its Iowa facilities. Additionally, MidAmerican has previously been informed of DNR's permitting requirements and is aware that its actions were in violation of DNR regulations. Based on the above considerations, \$2,250.00 is assessed for this factor.

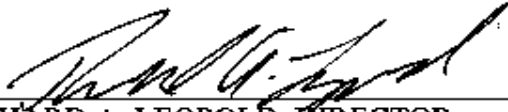
VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of MidAmerican. For that reason, MidAmerican waives its rights to appeal this order or any part thereof.

VIII. NONCOMPLIANCE

Failure to comply with this order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.146. Compliance with Section "V. Order" of this administrative consent order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this administrative consent order. DNR reserves the right to bring enforcement action, including penalties, or to request that the attorney general initiate legal action to address other violations not described in Section "IV. Conclusions of Law" of this administrative consent order but which may arise from the facts summarized in Section "III. Statement of Facts" of this administrative consent order. DNR specifically reserves the right to pursue enforcement action, including penalties, for any current violations not specifically cited in this order.

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RICHARD A. LEOPOLD, DIRECTOR
Iowa Department of Natural Resources

Dated this 15 day of
July, 2008.



FOR MIDAMERICAN ENERGY COMPANY

Dated this 1st day of
July, 2008.

78-01-026; Anne Preziosi; Dennis Thielen; EPA; VII.A.1; VII.A.2